477; *Linn* v. *Duquesne Borough,* 204 Pa. 551 54 Atl. 341, 93 Am. St. Rep. 800; *Southern Pacific Co.* v. *Hetzer,* 135 Fed. 274, 68 C. C. A. 26, 1 L. R. A. N. S. 288; *Johnson* v. *Wells Fargo & Co.,* 6 Nev. 224, 3 Am. Rep. 245; *Planters Oil Co.* v. *Mansell,* Tex. Civ. App. 43 S. W. 913; *Indianapolis & St. Louis R. Co.,* v. *Stables,* 62 Ill. 313; *Augusta R. Co.* v. *Randall,* 85 Ga. 297, 11 S. E. 706; *Giffen* v. *City of Lewiston,* 6 Idaho 231, 55 Pac. 545; *Railroad Co.* v. *Chance,* 57 Kan. 41, 45 Pac. 60; *Bovee* v. *Danville,* 53 Vt. 183.

EXECUTION—SECOND EXECUTION WHERE JUDGMENT IN REM.—Where judgment against a nonresident is based on substituted service and seizure of property under an attachment, *Held,* that the judgment creditor has not such a lien against the attached property as will, after the sale thereof and redemption therefrom, support a second sale on execution for the deficiency. *Herron* v. *Allen,* (S. D. 1913) 143 N. W. 283.

It is the general rule that property redeemed from an execution sale may be sold under a second execution to satisfy any deficiencies left under the first sale. *Flander* v. *Aumach,* 32 Ore. 19, 51 Pac. 447, 67 Am. St. Rep. 504: *Wood* v. *Colvin,* 3 Hill 228; *State, ex rel Allen* v. *Sherill,* 34 Ind. 57; *Allen* v. *McGaughey,* 31 Ark. 252; *Bodine* v. *Moore,* 18 N. Y. 347; *Green* v. *Stobo,* 118 Ind. 332. It will be observed, however, that this rule and the different theories advanced in its support have all been predicated on the doctrine that the judgment creates a general lien. See *Flander* v. *Aumach,* supra; *Seaman* v. *Galligan,* 8 S. D. 277; *Campbell* v. *Maginnis,* 70 Ia. 589; *Clayton* v. *Ellis,* 50 Ia. 590. But where the judgment is one in rem and based on substituted service and attachment, it is evident that the above rule should have no application. There is by virtue of a judgment in rem no general lien but only a special lien. Whether we adopt the view that the judgment itself creates the lien, or that the lien is created by the attachment and exists in an inchoate state until fully established by the judgment, the essential nature of the lien is not altered. It is a distinct and special lien on specific property, and under the well established rule must be regarded as terminated by the sale of the specific property to which it attaches. In such case there can be no second execution and sale.

INJUNCTION—ENCROACHMENT OF BUILDING.—Defendant erected a brick building on his land immediately adjoining the land of plaintiff. Through a mistake of the building contractor, the side wall of the building was not exactly vertical and, beginning at a place eighteen feet from the ground and extending to the eaves, the wall overhung plaintiffs property about an inch and a half. Plaintiff brought suit in equity for a mandatory injunction to compel defendant to remove the overhanging part. *Held,* that an injunction was properly refused. *Combs* v. *Lenox Realty Co.* (Me. 1913) 88 Atl. 477.

The court laid stress on the fact that the encroachment was unintentional and that the damage to the plaintiff was much less than the damage which the defendant would suffer were he compelled to remove the wall. The question raised in this case is one upon which there is much conflict in the courts of the United States. In accord are,—*Lynch* v. *Union Inst. for Savings,* 159 Mass. 308; *Harrington* v. *McCarthy,* 169 Mass. 492; *Norton* v. *Elwert,* 29

Ore. 583; *L. & N. R. R.* v. *Taylor,* 138 Ky. 437; *Hunter* v. *Carroll,* 64 N. H. 472. Practically, the rule laid down by these courts works out more equitably than would a contrary doctrine, but in strict theory why should the plaintiff in this case be compelled to give up real estate for its value in money? Courts of equity grant specific performance of contracts to convey land, on the ground that the money value in damages is not equivalent to the land. The same proposition would seem to underlie the question involved in the principal case. The cases taking this view are: *Pile* v *Pedrick, 227* Pa. 420; *Rahn* v. *Mil. Elec. R. & L. Co.,* 103 Wis. 467; *Hall* v. *Sugo,* 169 N. Y. 109; and all have been quoted approvingly in more recent cases in the same states. The court in the principal case remarked that the plaintiff had an action at law. This however would probably amount to no more than money damages because it is at least doubtful whether an action in ejectment could be maintained in such a case. *Wachstein* v. *Cristopher,* 128 Ga. 229, 11 L. R. A. (N. S.) 917. (Note). And even though the action was allowed, a sheriff might properly refuse to carry out the decree of the court. *Baron* v *Korn,* 127 N. Y. 224. The later New York cases have adopted what seems to be a very reasonable rule. In *Goldbacher* v. *Eggers,* 179 N. Y. 551, the court said that if defendant would pay certain damages to the plaintiff upon delivery of a deed by the plaintiff, then no injunction would be given; otherwise it would be granted. And in the lower court decision of *Crocker* v. *Manhattan L. Ins. Co.,* 66 N. Y. Supp. 84, the court decreed that defendant should remove the encroaching structure *as soon as* the plaintiff wished to build on the ground.

INSURANCE—ADDITIONAL INSURANCE—RENEWAL OF EXISTING POLICY.—Defendant's policy upon which plaintiff sued, provided that if the property was insured under other contracts, subscribed either before or after the execution of the said policy, the assured was bound to declare it (de le déclarer) and to mention it (de le faire mentionner) either in the policy or in a written endorsement thereon. The assured had at the time concurrent insurances which were duly recorded in the policy. Upon their expiration during the life of the policy in suit these insurances were replaced by insurance in another company for a slightly larger amount, the increase being due to an alleged addition to the value of the property covered. *Held,* That the condition in the policy meant only that the insured should declare the fact that the property covered was further insured, that the plaintiff had committed no breach of this condition, and was entitled to recover on the policy. *National Protector Fire Ins. Co.* v. *Nivert,* (Privy Council.) [1913] A. C. 507.

The decision in the principal case is largely based upon the wording of the policy sued upon. It was held that this did not require that the assured state the date, name of the company, or amount of the concurrent insurance. But in view of a somewhat similar provision in many American policies the case throws light on a question whether a renewal of existing insurance is "other insurance" such as to avoid a policy. The cases seem to be divided upon this point. In *Duclos* v. *Citizens Mutual Ins. Co.,* 23 La. Ann. 332, and in *Healey* v. *Imperial Fire Ins.* Co., 5 Nev. 268, it is held that a renewal is